



April 28, 1999

Ms. Tracy B. Calabrese  
Senior Assistant City Attorney  
City of Houston  
P.O. Box 1562  
Houston, Texas 77251-1562

OR99-1164

Dear Ms. Calabrese:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 125785.

The City of Houston (the “city”) received a request for “the names of the persons or person [who] reported the trash alongside the driveway near the gate of my house” and for copies of relevant city ordinances. You seek to withhold the requested name or names under the informer’s privilege aspect of section 552.101 of the Government Code.

Section 552.101 protects, *inter alia*, information made confidential by judicial decision, including the “informer’s privilege.” The informer’s privilege has been recognized by Texas courts. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). In *Roviaro v. United States*, 353 U.S. 53, 59 (1957), the United States Supreme Court explained the rationale that underlies the informer’s privilege:

What is usually referred to as the informer's privilege is in reality the Government's privilege to withhold from disclosure the identity of persons who furnish information of *violations of law to officers charged with enforcement of that law*. [Citations omitted.] The purpose of the privilege is the furtherance and protection of the public interest in effective law enforcement. The privilege recognizes the obligation of citizens to communicate their knowledge of the commission of crimes to law-enforcement officials and, *by preserving their anonymity*, encourages them to perform that obligation. [Emphasis added.]

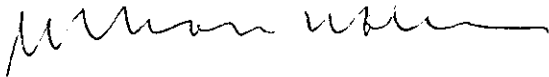
The “informer’s privilege” aspect of section 552.101 protects the identity of persons who report violations of the law. When information does not describe conduct that violates the law, the informer's privilege does not apply. Open Records Decision Nos. 515 (1988); 191 (1978). Although the privilege ordinarily applies to the efforts of law enforcement agencies,

it can apply to administrative officials with a duty of enforcing particular laws. Attorney General Opinion MW-575 (1982); Open Records Decision Nos. 285, 279 (1981); *see also* Open Records Decision No. 208 (1978). This may include enforcement of quasi-criminal civil laws. Open Records Decision Nos. 515 (1988); 391 (1983).

You supply a copy of the city's ordinance pertaining to "Neighborhood Nuisances," which provides for fines and other penalties for violations. Having examined reviewed these provisions, your arguments, and the information at issue, we conclude that you may withhold under the informer's privilege aspect of section 552.101 the information you have marked.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in dark ink, appearing to read "William Walker", with a long horizontal flourish extending to the right.

William Walker  
Assistant Attorney General  
Open Records Division

WMW/eaf

Ref.: ID# 125785

Encl. Submitted documents

cc: Mr. Lee Barrow  
5902 Moonmist Drive  
Houston, Texas 77081  
(w/o enclosures)